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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin J. Dowling, et al.
Serial No: 09/805,590
Confirmation. No.: 1160
Filed: March 13, 2001
For: LIGHT-EMITTING DIODE BASED PRODUCTS

Examiner: A., Minh D
Art Unit: 2821

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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, Washington, D.C. 20231, on the 5th day of March, 2003.

Robin Recesse
Signature

Commissioner For Patents
Washington, D.C. 20231

Sir:

Transmitted herewith are the following documents:

- ☒ Information Disclosure Statement
- ☒ PTO Form 1449
- ☒ Return Receipt Postcard

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If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check in the amount of \$180.00 is enclosed to cover the filing fee. If the fee is insufficient, the balance may be charged to Deposit Account 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,
Kevin J. Dowling, et al., Applicant(s)

By: Joseph Teja, Jr.
Joseph Teja, Jr., Reg. No.: 45,157
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617)720-3500

Docket No. C01104.70016.US
Date: March 5, 2003
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686807-1



ATTORNEY'S DOCKET NO: C01104/70016

RJP/JT

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Robyn Secuse

Commissioner for Patents
Washington, D.C. 20231

STATEMENT FILED PURSUANT TO THE DUTY OF
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98

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Sir/Madam:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicants request consideration of this Information Disclosure Statement.

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PART I: Compliance with 37 C.F.R. §1.97

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office Action, but before the mailing date of either a final action under 37 C.F.R. §1.113 or a Notice of Allowance under 37 C.F.R. §1.311, or an action that otherwise closes prosecution in this application.

The fee of \$180.00 as set forth in 37 C.F.R. §1.17(p) is enclosed.

PART II: Information Cited

The Applicants hereby make of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

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The Applicants also wish to bring to the attention of the Examiner the following information:

Pursuant to MPEP §2001.06(c), Applicants bring to the Examiner's attention that two U.S. patents relating to the present application have been involved in litigation. These patents include U.S. Patent No. 6,016,038 and U.S. Patent No. 6,150,774, assigned to Color Kinetics, Inc. The present application is entitled to the benefit of these two patents, under 35 U.S.C. §120, as a continuation-in-part application of co-pending Application Serial No. 09/669,121, which similarly is entitled to the benefit of these two patents.

The aforementioned patents both are involved in the following litigations: Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, and Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts.

Applicants acknowledge the duty to disclose to the U.S. Patent Office material information that may arise from these litigations, including evidence of possible prior public use or sales, questions of inventorship, prior art, allegations of "fraud," "inequitable conduct," and "violation of duty of disclosure," or any assertion which is contradictory to assertions made to the Examiner during prosecution of the present application.

To this end, Applicants already have submitted to the Examiner in an Information Disclosure Statement dated February 25, 2003 in the present application various prior art that arose in connection with the above-identified litigations. Applicants also wish to make of record in the present application the following documents from the litigations:

A. Case No. 6:02-cv-270-ORL-19JGG

1. Plaintiff's Amended Verified Complaint
2. Defendant's Answer and Counterclaims
3. Plaintiff's Answer to Counterclaims
4. Plaintiff's Answers to Defendant's First Set of Interrogatories

Three exhibits originally accompanied document 4 above: Exhibit 1, which is an affidavit of Kevin Furry and Chuck Somerville; Exhibit 2, which is a confidential financial statement furnished by the Plaintiff; and Exhibit 3, which is a confidential opinion of counsel obtained by the Plaintiff relating to validity and non-infringement of the asserted patents. Both Exhibits 2

and 3 accompanying document 4 were marked "Confidential," pursuant to a Confidentiality Agreement between the parties in the Florida case, and hence have not been disclosed to the United States Patent and Trademark Office.

B. Case No. 02 CV 11137MEL

1. Plaintiff's Complaint and Jury Demand
2. Defendant's Answer and Affirmative Defenses

Applicants do not provide the above-identified documents herewith, as these documents were disclosed in and provided with an Information Disclosure Statement filed March 4, 2003 in co-pending Application Serial No. 09/669,121, to which the present application claims priority under 35 U.S.C. §120.

Applicants make no representation that the above-identified documents provide information material to the examination of the present application. Applicants make these documents of record in the present application primarily for completeness to facilitate the Examiner's understanding of the nature of these litigations. The Examiner is urged to form his or her own conclusion regarding the relevance of the information contained in these documents.

PART III: Additional Remarks

Documents cited on the attached form PTO-1449 (modified) are enclosed unless otherwise indicated on the attached form PTO-1449 (modified). It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicants make no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

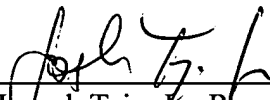
By submitting this Information Disclosure Statement, the Applicants make no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicants, again the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

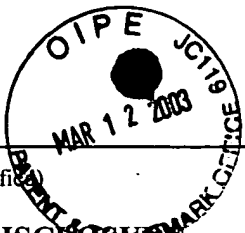
Respectfully submitted,

Kevin J. Dowling, et al., Applicants

By: 

Joseph Teja, Jr., Reg. No. 45,157
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210
Telephone (617) 720-3500

Docket No. C01104/70016
Dated: March 5, 2003



FORM PTO-1449/A and B (Modified) INFORMATION DISCLOSURE STATEMENT BY APPLICANT				APPLICATION NO.: 09/805,590		ATTY. DOCKET NO.: C01104/70016			
				FILING DATE: March 13, 2001					
				APPLICANT: Kevin J. Dowling, et al.					
				GROUP ART UNIT: 2821		EXAMINER: A., Minh D			
Sheet	1	of	1						

U.S. PATENT DOCUMENTS

Examiner's Initials#	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		
		*4,824,269		Havel	April 25, 1989

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OTHER ART — NON PATENT LITERATURE DOCUMENTS

Examiner's Initials#	Cite No	Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)	
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Plaintiff's Amended Verified Complaint		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Defendant's Answer and Counterclaims		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Plaintiff's Answer to Counterclaims		
		*Case No. 6:02-cv-270-ORL-19JGG in the United States District Court, Middle District of Florida, Orlando Division, Plaintiff's Answers to Defendant's First Set of Interrogatories w/Exhibit 1		
		*Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts, Plaintiff's Complaint and Jury Demand		
		*Case No. 02 CV 11137MEL in the United States District Court, District of Massachusetts, Defendant's Answer and Affirmative Defenses		

EXAMINER	DATE CONSIDERED
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#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. 09/669,121, filed September 25, 2000, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

[NOTE - Must provide a copy of any patent, publication, other information listed, even if it was previously submitted to, or cited by, the U.S. Patent Office in an earlier application, unless the earlier application is identified by the IDS and is relied upon for an earlier filing date under 35 U.S.C. §120, and the copy was provided in the earlier application.]